

RECEIVED-CLERK
U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION
TX EASTERN DISTRICT OF TEXAS

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JAN 17 2005

CIENA CORPORATION, a Delaware
corporation,

Plaintiff,

v.

NORTEL NETWORKS INC., a Delaware
corporation, and NORTEL NETWORKS
CORPORATION, a Canadian corporation,

Defendants.

DAVID MALAND, CLERK
By
Deputy _____

Civil Action No. **2-05 CV-144**

LED

**COMPLAINT FOR PATENT INFRINGEMENT AND
DEMAND FOR JURY TRIAL**

Plaintiff, Ciena Corporation ("Ciena"), as and for its Complaint For Patent
Infringement against defendants Nortel Networks Inc. and Nortel Networks Corporation
(collectively "Nortel"), alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States,
35 U.S.C. § 1 *et seq.* This Court has jurisdiction over Plaintiff's federal law claims under
28 U.S.C. §§ 1331 and 1338(a)-(b).

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and
1400(b) because defendants reside in and have committed substantial acts of infringement in this
District, including making, using, offering to sell and/or importing products covered by and/or
whose use induces or contributes to the infringement of certain patents owned by Ciena.

COMPLAINT

PARTIES

3. Ciena is a Delaware corporation doing business in this judicial district and elsewhere.

4. Nortel Networks Inc. is a Delaware corporation doing business and committing acts of infringement in this judicial district and elsewhere.

5. Nortel Networks Corporation is a Canadian corporation doing business and committing acts of infringement in this judicial district and elsewhere.

FACTUAL BACKGROUND

6. Ciena is the owner of certain patents issued by the United States Patent & Trademark Office covering communications networking technology.

7. Specifically, Ciena is the exclusive owner of all right, title and interest in the following patents: No. 5,715,076, No. 6,163,392, No. 6,278,535, No. 6,324,165, No. 5,315,586 and No. 5,999,532 (collectively, the "Ciena Patents").

8. Nortel and Ciena both sell communications networking products, and Nortel has been infringing the Ciena Patents in order to compete against Ciena's product lines.

9. Ciena brings this action in order to enjoin Nortel's infringing activities and recover all damages caused by its infringement.

COUNT I **(Infringement of U.S. Patent No. 5,715,076)**

10. The allegations of paragraphs 1-9 above are incorporated herein by reference.

COMPLAINT

11. This claim arises under the patent laws of the United States,
35 U.S.C. § 1 *et seq.*

12. Ciena is the owner of U.S. Patent No. 5,715,076 (“the ‘076 patent”) which
was duly and legally issued on February 3, 1998, and is entitled “Remodulating Channel
Selectors for WDM Optical Communication Systems.” A true and correct copy of the ‘076
patent is attached hereto as Exhibit 1.

13. Nortel has been and is directly and contributorily infringing the ‘076
patent, and inducing infringement of the ‘076 patent, in this District and elsewhere in the United
States, by making, using, selling, offering for sale and/or importing products covered by and/or
whose use induces or contributes to the infringement of the ‘076 patent, including but not limited
to products such as Nortel’s OPTera LH 1600, OPTera DT, OPTera Metro 5000 series (including
but not limited to the OPTera Metro 5100 and the OPTera Metro 5200), and Common Photonic
Layer.

14. Nortel’s acts of infringement are willful.

15. Nortel’s acts of infringement have damaged Ciena in an amount to be
proven at trial.

16. Nortel’s acts of infringement have caused irreparable injury to Ciena and
Ciena will continue to suffer irreparable injury unless Nortel is enjoined.

COUNT II
(Infringement of U.S. Patent No. 6,163,392)

17. The allegations of paragraphs 1-16 above are incorporated herein by
reference.

18 This claim arises under the patent laws of the United States,
35 U.S.C. § 1 *et seq.*

19 Ciena is the owner of U.S. Patent No. 6,163,392 (“the ‘392 patent”) which
was duly and legally issued on December 19, 2000, and is entitled “Distributed Intelligence
Wavelength Division Multiplexed Network ” A true and correct copy of the ‘392 patent is
attached hereto as Exhibit 2.

20 Nortel has been and is directly and contributorily infringing the ‘392
patent, and inducing infringement of the ‘392 patent, in this District and elsewhere in the United
States, by making, using, selling, offering for sale and/or importing products covered by and/or
whose use induces or contributes to the infringement of the ‘392 patent, including but not limited
to products such as OPTera LH 1600, OPTera DT, OPTera Metro 5000 series (including but not
limited to the OPTera Metro 5100 and the OPTera Metro 5200), and Common Photonic Layer.

21. Nortel’s acts of infringement are willful.

22. Nortel’s acts of infringement have damaged Ciena in an amount to be
proven at trial.

23. Nortel’s acts of infringement have caused irreparable injury to Ciena and
Ciena will continue to suffer irreparable injury unless Nortel is enjoined.

COUNT III
(Infringement of U.S. Patent No. 6,278,535)

24. The allegations of paragraphs 1-23 above are incorporated herein by
reference.

25. This claim arises under the patent laws of the United States,
35 U.S.C. § 1 *et seq.*

COMPLAINT

26. Ciena is the owner of U.S. Patent No. 6,278,535 ("the '535 patent") which was duly and legally issued on August 21, 2001, and is entitled "SONET J0 Byte Message Monitoring System." A true and correct copy of the '535 patent is attached hereto as Exhibit 3.

27. Nortel has been and is directly and contributorily infringing the '535 patent, and inducing infringement of the '535 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing products covered by and/or whose use induces or contributes to the infringement of the '535 patent, including but not limited to products such as OPTera LH 1600, OPTera DT, OPTera Multiservice edge 6500, OPTera Metro 3000/4000/5000 series, OPTera connect HDX/HDXc/Dx/Metro, and other Nortel SDH/SONET MUXs and ADMs (including next generation SONET/SDH).

28. Nortel's acts of infringement are willful.

29. Nortel's acts of infringement have damaged Ciena in an amount to be proven at trial.

30. Nortel's acts of infringement have caused irreparable injury to Ciena and Ciena will continue to suffer irreparable injury unless Nortel is enjoined.

COUNT IV
(Infringement of U.S. Patent No. 6,324,165)

31. The allegations of paragraphs 1-30 above are incorporated herein by reference.

32. This claim arises under the patent laws of the United States,
35 U.S.C. § 1 *et seq.*

33. Ciena is the owner of U.S. Patent No. 6,324,165 ("the '165 patent") which was duly and legally issued on November 27, 2001, and is entitled "Large Capacity, Multiclass Core ATM Switch Architecture." A true and correct copy of the '165 patent is attached hereto as Exhibit 4.

34. Nortel has been and is directly and contributorily infringing the '165 patent, and inducing infringement of the '165 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing products covered by and/or whose use induces or contributes to the infringement of the '165 patent, including but not limited to Passport 7000 series, Passport 15000 series and Passport 20000 series.

35. Nortel's acts of infringement are willful.

36. Nortel's acts of infringement have damaged Ciena in an amount to be proven at trial.

37. Nortel's acts of infringement have caused irreparable injury to Ciena and Ciena will continue to suffer irreparable injury unless Nortel is enjoined

COUNT V
(Infringement of U.S. Patent No. 5,315,586)

38. The allegations of paragraphs 1-37 above are incorporated herein by reference.

39. This claim arises under the patent laws of the United States,
35 U.S.C. § 1 *et seq.*

40. Ciena is the owner of U.S. Patent No. 5,315,586 ("the '586 patent") which was duly and legally issued on May 24, 1994, and is entitled "Resource Reallocation For Flow-Enforced User Traffic." A true and correct copy of the '586 patent is attached hereto as Exhibit 5.

41. Nortel has been and is directly and contributorily infringing the '586 patent, and inducing infringement of the '586 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing products covered by and/or whose use induces or contributes to the infringement of the '586 patent, including but not limited to Passport 7000 series, Passport 15000 series and Passport 20000 series.

42. Nortel's acts of infringement are willful

43. Nortel's acts of infringement have damaged Ciena in an amount to be proven at trial.

44. Nortel's acts of infringement have caused irreparable injury to Ciena and Ciena will continue to suffer irreparable injury unless Nortel is enjoined.

COUNT VI
(Infringement of U.S. Patent No. 5,999,532)

45. The allegations of paragraphs 1-44 above are incorporated herein by reference.

46. This claim arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

47. Ciena is the owner of U.S. Patent No. 5,999,532 ("the '532 patent") which was duly and legally issued on December 7, 1999, and is entitled "ATM Line Concentration Apparatus." A true and correct copy of the '532 patent is attached hereto as Exhibit 6.

48. Nortel has been and is directly and contributorily infringing the '532 patent, and inducing infringement of the '532 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing products covered by and/or whose use induces or contributes to the infringement of the '532 patent, including but not limited to Passport 7000 series, Passport 15000 series and Passport 20000 series.

49. Nortel's acts of infringement are willful.

50. Nortel's acts of infringement have damaged Ciena in an amount to be proven at trial.

51. Nortel's acts of infringement have caused irreparable injury to Ciena and Ciena will continue to suffer irreparable injury unless Nortel is enjoined.

PRAYER

WHEREFORE, Ciena prays that the Court:

A. Enter judgment that Nortel has infringed, contributorily infringed, and induced infringement of the Ciena Patents;

B. Enter judgment that Nortel's acts of infringement, contributory infringement, and inducing infringement have been and are willful;

C. Temporarily, preliminarily and permanently enjoin Nortel, their parents, subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives and all parties in active concert and/or participation with them, from engaging in the aforesaid unlawful acts of infringement, contributory infringement and/or inducing infringement;

D. Order Nortel to account for and pay to Ciena all damages caused to Ciena by Nortel's infringement, contributory infringement and/or inducement of infringement, pursuant to 35 U.S.C. § 284, and award Ciena any and all other compensatory damages available by law;

E. Award Ciena increased damages and attorneys' fees pursuant to 35 U.S.C. §§ 284-285;

F. Award Ciena prejudgment and postjudgment interest and its costs incurred in this action; and

G. Grant Ciena such other and further relief as the Court may deem just and proper

DEMAND FOR JURY TRIAL

Ciena demands a jury trial of all issues triable of right by jury.

DATED: January 17, 2005

Respectfully submitted,

By: 

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Attorneys for Plaintiff
CIENA CORPORATION

COMPLAINT



US005715076A

United States Patent [19]

Alexander et al.

[11] **Patent Number:** 5,715,076[45] **Date of Patent:** Feb. 3, 1998

[54] **REMODULATING CHANNEL SELECTORS
FOR WDM OPTICAL COMMUNICATION
SYSTEMS**

5,493,625 2/1996 Glance 359/124
5,504,609 4/1996 Alexander et al. 359/125
5,608,571 3/1997 Epworth et al. 359/124

[75] **Inventors:** Stephen B. Alexander, Millersville;
Steve W. Chaddick, Annapolis; Roy
Litz, Freeland; Cecil D. Smith, Severna
Park, all of Md.

Primary Examiner—Kinfe Michael Negash
Attorney, Agent, or Firm—Margaret Burke

[73] **Assignee:** Ciena Corporation, Linthicum, Md.

[57] **ABSTRACT**

[21] **Appl. No.:** 669,049

[22] **Filed:** Jun. 24, 1996

Related U.S. Application Data

[63] Continuation-in-part of Ser. No. 624,269, Mar. 29, 1996,
which is a continuation-in-part of Ser. No. 438,844, May 11,
1995, Pat. No. 5,504,609.

[51] **Int. Cl.⁶** H04J 14/02

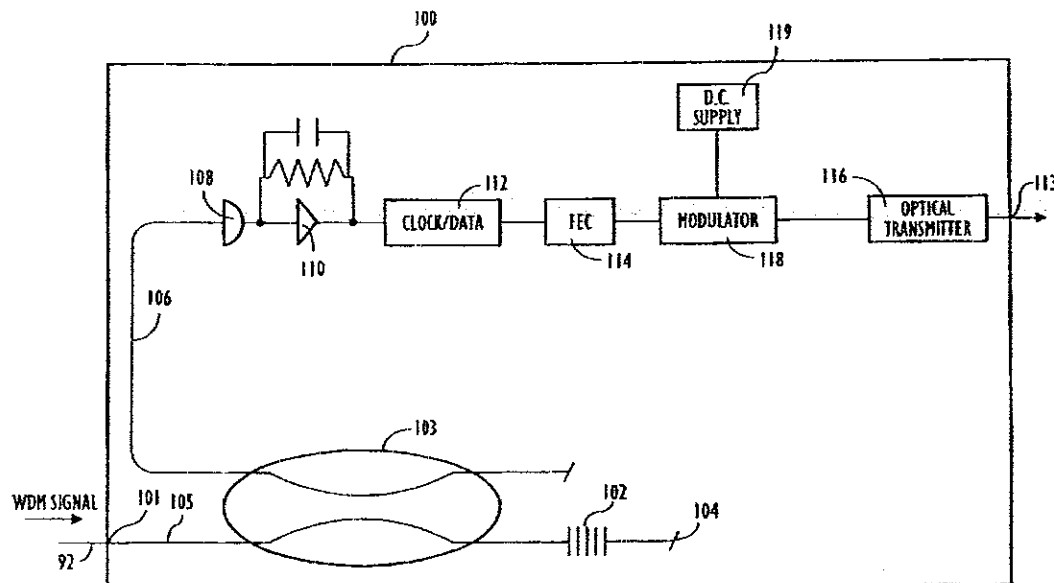
[52] **U.S. Cl.** 359/130; 359/125; 385/37

[58] **Field of Search** 359/124-125,
359/127, 130, 179; 385/24, 37

The present invention provides a remodulating channel selector for a wavelength division multiplexed optical communication system. The remodulating selector receives a WDM input signal, selects a particular optical channel from the WDM signal and places the information from the selected signal onto a newly-generated optical output signal. The wavelength of the output optical signal can be the same as or different from one of the optical channels which comprises the WDM input signal. When used in a WDM optical communication system with remodulators at the transmission input, the remodulating selectors provide complete control over the interfaces with optical transmitters and receivers, permitting use with a broad range of optical equipment.

[56] **References Cited****U.S. PATENT DOCUMENTS**

5,455,699 10/1995 Glance et al 359/125

11 Claims, 3 Drawing Sheets

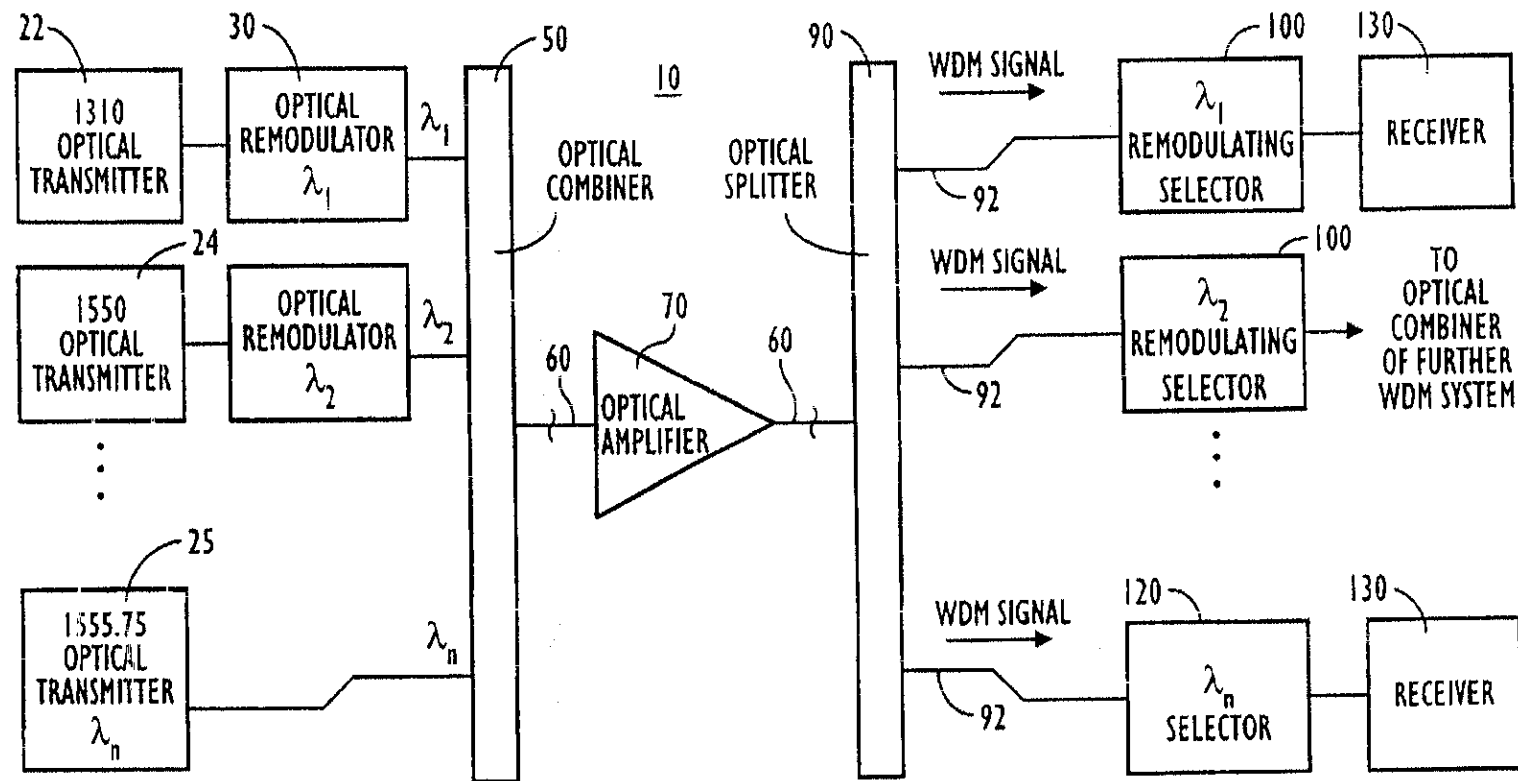


FIG. 1

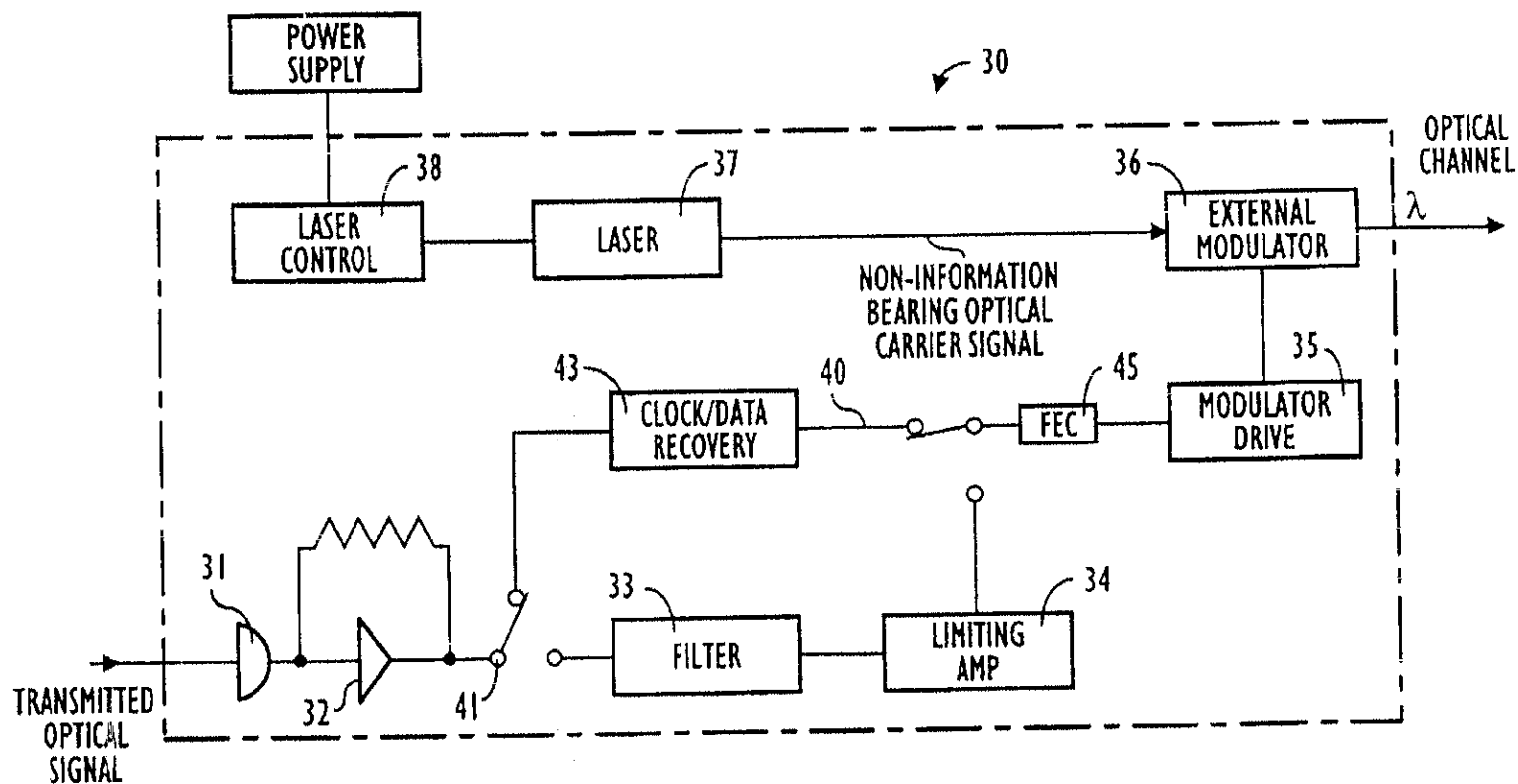


FIG. 2

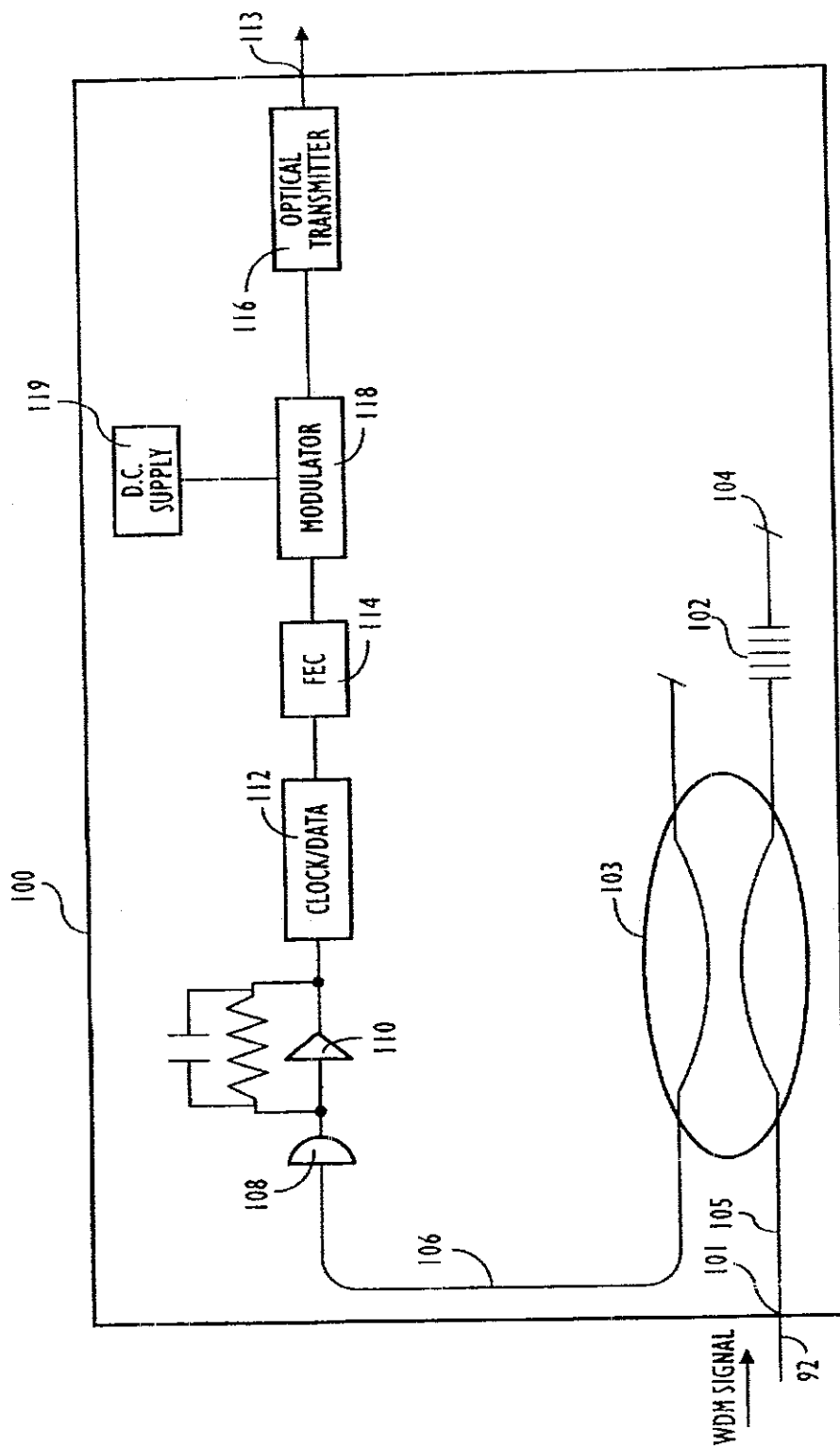


FIG. 3